

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE

Case

27-CB-297274

Date Filed

06/07/2022

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name National Postal Mailhandlers Union, Local 321	b. Union Representative to contact (b) (6), (b) (7)(C)	
c. Address (Street, city, state, and ZIP code) 1833 West Elk Place, Denver, CO 80211	d. Tel. No. 303-455-6400	e. Cell No.
	f. Fax. No.	
	g. e-mail	
h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b) and (list subsections) 1(A) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In late March 2022 I heard that a grievance settlement had been negotiated as a result of two grievances that were filed in (b) (6), (b) (7)(C) 2019 due to clerks performing mailhandlers work. The settlement was paid on about (b) (6), (b) (7)(C) 2022. Most of the senior mailhandlers did not receive any portion of that grievance settlement.

The Union has not followed the contract with regard to the disbursement of the payout.

On about (b) (6), (b) (7)(C) 22, I talked to (b) (6), (b) (7)(C) and asked (b) (6), (b) (7)(C) for grievance disbursement information, and (b) (6), (b) (7)(C) refused to provide it.

3. Name of Employer U.S. Postal Service Denver P & DC	4a. Tel. No. 303-853-6325	b. Cell No.	c. Fax No.
	d. e-mail		
5. Location of plant involved (street, city, state and ZIP code) 7540 E 53rd Place, Denver, CO 80266	6. Employer representative to contact Will Love, plant manager		
7. Type of establishment (factory, mine, wholesaler, etc.) mail processing facility	8. Identify principal product or service processing of mail	9. Number of workers employed 2000	
10. Full name of party filing charge (b) (6), (b) (7)(C)			
11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)			
11a. Tel. No. (b) (6), (b) (7)(C)			
b. Cell No.			
c. Fax No.			
d. e-mail (b) (6), (b) (7)(C)			

12. DECLARATION

I declare that I have read the above charge and that the statements

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(signature) (person making charge)

(b) (6), (b) (7)(C)

Tel. No.
720-979-7091

Address

(b) (6), (b) (7)(C)

Date

June 2 - 2022

e-mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlr.gov
Telephone: (303)844-3551
Fax: (303)844-6249



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June 8, 2022

(b) (6), (b) (7)(C)

NPMHU Local 321
1833 West Elk Place
Denver CO 80211

Re: National Postal Mailhandlers Union
Local 321 (United States Postal Service)
Case 27-CB-297274

Dear **(b) (6), (b) (7)(C)**:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If this Board agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

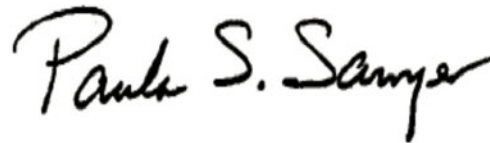
In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director

Enclosure: Copy of Charge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**NATIONAL POSTAL MAILHANDLERS UNION,
LOCAL 321 (UNITED STATES POSTAL
SERVICE)**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 27-CB-297274

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on June 8, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

NPMHU Local 321
1833 West Elk Place
Denver CO 80211

June 8, 2022

Date

Caroline Barker, Designated Agent of NLRB

Name

/s/ Caroline Barker

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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June 8, 2022

(b) (6), (b) (7)(C)

Re: National Postal Mailhandlers Union
Local 321 (United States Postal Service)
Case 27-CB-297274

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on June 06, 2022 has been docketed as case number 27-CB-297274. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If this Board agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

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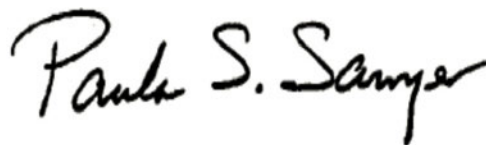
If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director



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NATIONAL LABOR RELATIONS BOARD

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June 8, 2022

Dallas Kingsbury, Chief Managing Counsel
United States Postal Service
Law Office NLRB Unit
475 L'Enfant Plaza SW
Washington DC 20260

Re: National Postal Mailhandlers Union
Local 321 (United States Postal Service)
Case 27-CB-297274

Dear Mr. Kingsbury:

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, in the future we may need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If this Board agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence

produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

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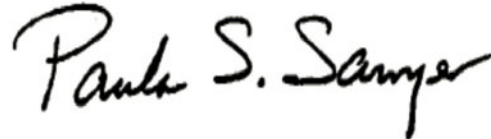
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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director

Enclosure: Copy of Charge

cc: William Love, Plant Manager
United States Postal Service
7540 East 53rd Place
Denver CO 80266

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Individual _____ and _____

CASE 27-CB-297274

National Postal Mailhandlers Union, Local 321
(United States Postal Service)

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
National Postal Mail Handlers Union, Local 321

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Stanley M. Gosch
MAILING ADDRESS: 8085 E Prentice Ave
Greenwood Village CO
E-MAIL ADDRESS: stan@rosenblattgosch.com
OFFICE TELEPHONE NUMBER: 303721739912
CELL PHONE NUMBER: 3034723127 FAX: 7205281220
SIGNATURE: *Stanley M. Gosch*
DATE: Tuesday, June 28, 2022 10:35 AM Mountain Standard Time

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

UNITED STATES OF AMERICA		DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD		Case	Date filed
FIRST AMENDED CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		27-CB-297274	6/30/2022
INSTRUCTIONS: File an original of this charge with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring.			
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name National Postal Mail Handlers Union, Local 321		b. Union Representative to Contact (b) (6), (b) (7)(C)	
c. Address 1833 West Elk Place, Denver, CO 80211		d. Tel. No. (303)455-6400	e. e. Cell No.
		f. Fax No. (303) 455-5810	g. e-Mail (b) (6), (b) (7)(C)@local321.org
h. The above-named labor organization or its agents have engaged in and are engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (1)(A) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the past six months, the above-named labor organization has breached its duty of fair representation by excluding the undersigned employee and other similarly situated employees from a grievance settlement payout for arbitrary, discriminatory or bad faith reasons. Similarly, the above-named labor organization has breached its duty of fair representation by refusing to provide information relevant to the payment of grievance settlement monies upon employees' requests to ascertain how the settlement monies were paid and whether the distribution of the settlement monies was fair.			
3. Name of Employer United States Postal Service		4a. Tel. No.	4b. Cell No.
		4c. Fax No.	4d. e-Mail
5. Location of Plant involved (street, city, state, and ZIP code) 7540 East 53rd Place, Denver, CO 80266		6. Employer representative to contact William Love, Plant Manager	
7. Type of Establishment (factory, mine, wholesaler)	8. Principal product or service		9. Number of Workers employed 2000
10. Full name of party filing charge (b) (6), (b) (7)(C)		11a. Tel. No.	11b. Cell No. (b) (6), (b) (7)(C)
		11c. Fax No.	11d. e-Mail (b) (6), (b) (7)(C)
11. Address of party filing charge (street, city, state, and ZIP code) (b) (6), (b) (7)(C)			
12. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By: (b) (6), (b) (7)(C)		Tel No.	
(Signature)		(b) (6), (b) (7)(C)	
Address: (b) (6), (b) (7)(C)		Print/type name and title or office, if any	Cell No. (b) (6), (b) (7)(C)
		Date: 6-30-22	Fax No.
			e-Mail (b) (6), (b) (7)(C)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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July 5, 2022

(b) (6), (b) (7)(C)

National Postal Mailhandlers Union, Local 321
1833 West Elk Place
Denver, CO 80211

Re: National Postal Mail Handlers Union, Local
321 (United States Postal Service)
Case 27-CB-297274

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If the agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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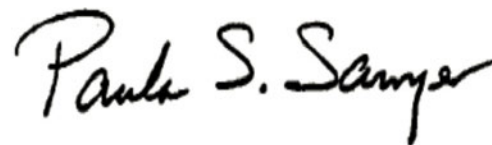
Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a

July 5, 2022

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director

Enclosure: Copy of first amended charge

cc: Stanley M. Gosch, Esq.
Rosenblatt & Gosch, PLLC
8085 E. Prentice Ave
Greenwood Village, CO 80111-2705

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**NATIONAL POSTAL MAIL HANDLERS
UNION, LOCAL 321 (UNITED STATES POSTAL
SERVICE)**

Charged Party

Case 27-CB-297274

and

(b) (6), (b) (7)(C)

Charging Party

**AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST LABOR
ORGANIZATION**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **July 5, 2022**, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

National Postal Mailhandlers Union,
Local 321
1833 West Elk Place
Denver, CO 80211

Stanley M. Gosch, Esq.
Rosenblatt & Gosch, PLLC
8085 E. Prentice Ave
Greenwood Village, CO 80111-2705

July 5, 2022

Date

Ariel York
Designated Agent of NLRB
Name

/s/ Ariel York

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlr.gov
Telephone: (303)844-3551
Fax: (303)844-6249



Download
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Mobile App

July 5, 2022

Dallas G. Kingsbury, Chief Managing Counsel
United States Postal Service
Law Office NLRB Unit
475 L'Enfant Plaza SW
Washington, DC 20260

Re: National Postal Mail Handlers Union, Local
321 (United States Postal Service)
Case 27-CB-297274

Dear Mr. Kingsbury:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If the Board agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, if the Board agent asks you for evidence with respect to the allegations in the first amended charge, I urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

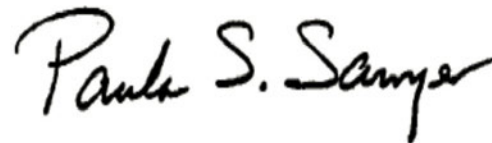
Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the

July 5, 2022

Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director

Enclosure: Copy of first amended charge

cc: William Love, Plant Manager
United States Postal Service
7540 East 53rd Place
Denver, CO 80266



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlr.gov
Telephone: (303)844-3551
Fax: (303)844-6249



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July 5, 2022

(b) (6), (b) (7)(C)

Re: National Postal Mail Handlers Union, Local
321 (United States Postal Service)
Case 27-CB-297274

Dear (b) (6), (b) (7)(C)

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney JOSE R. ROJAS whose telephone number is (720)598-7415. If the agent is not available, you may contact Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

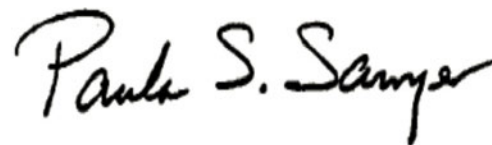
Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a

July 5, 2022

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA S. SAWYER
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249

December 28, 2022

(b) (6), (b) (7)(C)

Re: National Postal Mail Handlers Union, Local
321 (United States Postal Service)
Case 27-CB-297274

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that National Postal Mail Handlers Union, Local 321 (Union) has violated the National Labor Relations Act (Act).

Decision to Partially Dismiss: Based on that investigation, I have decided to dismiss the portion of the charge that alleges the Union violated Section 8(b)(1)(A) of the Act by excluding you and other employees from a grievance payout pursuant to two grievance settlements negotiated between the Union and the United States Postal Service (USPS).

A union owes all unit employees the duty of fair representation. *Air Line Pilots Assn. v. O'Neill*, 499 U.S. 65, 75-78 (1991); *United Steelworkers of America v. Rawson*, 495 U.S. 361, 376 (1990). This duty extends to all functions of the bargaining representative, *O'Neill*, id. at 67, including contract administration, and, relevant here, the distribution of proceeds from the settlement of a class action grievance. A wide range of reasonableness must be allowed a statutory bargaining representative in serving the unit it represents, subject always to complete good faith and honesty of purpose in the exercise of its discretion. *O'Neill*, 499 U.S. at 75. Mere negligence does not constitute a breach of the duty of fair representation. *Rawson*, 495 U.S. at 376.

Applying these principles, I have determined that the Union did not breach its duty of fair representation in the manner it distributed the settlement monies. In this regard, the investigation establishes the Union was tasked with identifying the recipients of settlement monies pursuant to two grievance settlements negotiated between the Union and USPS. In doing so, the Union identified the recipients of the settlement monies to include not only employees in the affected unit but also employees out of the unit who had volunteered to work overtime in the affected unit during the grievance period. The Union differentiated between groups of employees in the affected unit, giving the larger settlement amounts to those in the unit who worked longer during the grievance period than those who did not. And for those that worked outside the affected unit but volunteered to work overtime in the unit during the grievance period, the Union sought to differentiate them by seniority in their respective units and tours. Considering the foregoing, the

Union exercised its discretion in a rational and non-arbitrary manner in how settlement monies were distributed.

The investigation further establishes that you and other certain employees did not receive any settlement monies, despite having either worked in the affected unit or volunteered to work overtime in the affected unit during the grievance period. The investigation establishes that the exclusion was due to an oversight and not for arbitrary, discriminatory or bad faith reasons. In sum, the omission of you and certain other employees from the settlement proceedings was due to mere negligence and, consistent with Board's principles, not a breach of the duty of fair representation. For these reasons, I am refusing to issue a complaint based on this portion of the charge.

However, the remaining allegation that the Union violated Section 8(b)(1)(A) of the Act by refusing to provide information relevant to the payment of grievance settlement monies upon employees' request remains subject to further processing.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me. The main telephone number for the Office of Appeals is **(202) 273-3760**.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **January 11, 2022**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 10, 2022. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the

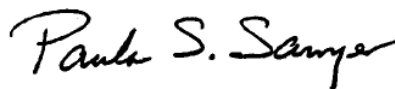
December 28, 2022

appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 11, 2022**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 10, 2022, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



PAULA S. SAWYER
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
National Postal Mail Handlers Union, Local 321
1833 West Elk Place
Denver, CO 80211
(b) (6), (b) (7)(C)@local321.org
Stanley M. Gosch, Esq.
Rosenblatt & Gosch, PLLC
8085 E. Prentice Ave.
Greenwood Village, CO 80111
stan@rosenblattgosch.com

Dallas G. Kingsbury, Chief Managing Counsel
United States Postal Service
Law Office NLRB Unit
475 L'Enfant Plaza SW
Washington, DC 20260
uspsnlrb@usps.gov

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.
8. If you need to contact the Office of Appeals, please call **(202)273-3760**.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

January 18, 2023

(b) (6), (b) (7)(C)

Re: National Postal Mail Handlers Union, Local
321 (United States Postal Service)
Case 27-CB-297274

Dear (b) (6), (b) (7)(C)

We have received your request for an extension of time to file an appeal. We are granting you an extension to **February 3, 2023**.

File your Appeal Electronically by February 3, 2023. You must file your appeal electronically via the Agency's website www.nlr.gov and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by **11:59 pm Eastern Time on February 3, 2023**. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by February 2, 2023. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service **no later than February 2, 2023** and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: PAULA S. SAWYER
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
BYRON ROGERS FEDERAL OFFICE
BUILDING
1961 STOUT ST, STE 13-103
DENVER, CO 80294

DALLAS G. KINGSBURY, CHIEF
MANAGING COUNSEL
UNITED STATES POSTAL SERVICE
LAW OFFICE NLRB UNIT
475 L'ENFANT PLAZA SW
WASHINGTON, DC 20260

STANLEY M. GOSCH, ESQ.
ROSENBLATT & GOSCH, PLLC
8085 E. PRENTICE AVE
GREENWOOD VILLAGE, CO 80111

vh